

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 512 be amended to read as follows:

- 1 Page 8, between lines 11 and 12, begin a new paragraph and insert:
2 "SECTION 5. IC 36-4-3-5.1 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5.1. (a) This section
4 applies to an annexation in which owners of land located outside but
5 contiguous to a municipality file a petition with the legislative body of
6 the municipality:
7 (1) requesting an ordinance annexing the area described in the
8 petition; and
9 (2) signed by one hundred percent (100%) of the landowners that
10 reside within the territory that is proposed to be annexed.
11 (b) Sections 2.1 and 2.2 of this chapter do not apply to an annexation
12 under this section.
13 (c) The petition circulated by the landowners must include on each
14 page where signatures are affixed a heading that is substantially similar
15 to the following:
16 "PETITION FOR ANNEXATION INTO THE (insert whether city
17 or town) OF (insert name of city or town).".
18 (d) The municipality may:
19 (1) adopt an annexation ordinance annexing the territory; and
20 (2) adopt a fiscal plan and establish a definite policy by resolution
21 of the legislative body;
22 after the legislative body has held a public hearing on the proposed
23 annexation.
24 (e) The municipality may introduce and hold the public hearing on

the annexation ordinance not later than thirty (30) days after the petition is filed with the legislative body. Notice of the public hearing may be published one (1) time in accordance with IC 5-3-1 at least twenty (20) days before the hearing. All interested parties must have the opportunity to testify at the hearing as to the proposed annexation.

(f) The municipality may adopt the annexation ordinance not earlier than fourteen (14) days after the public hearing under subsection (e).

(g) A landowner may withdraw the landowner's signature from the petition not more than thirteen (13) days after the municipality adopts the fiscal plan by providing written notice to the office of the clerk of the municipality. If a landowner withdraws the landowner's signature, the petition shall automatically be considered a voluntary petition that is filed with the legislative body under section 5 of this chapter, fourteen (14) days after the date the fiscal plan is adopted. All provisions applicable to a petition initiated under section 5 of this chapter apply to the petition.

(h) If the municipality does not adopt an annexation ordinance within sixty (60) days after the landowners file the petition with the legislative body, the landowners may file a duplicate petition with the circuit or superior court of a county in which the territory is located. The court shall determine whether the annexation shall take place as set forth in section 5 of this chapter.

(i) A remonstrance under section 11 of this chapter may not be filed. However, an appeal under section 15.5 **or 15.6** of this chapter may be filed.

(j) In the absence of an appeal under section 15.5 **or 15.6** of this chapter, an annexation ordinance adopted under this section takes effect not less than thirty (30) days after the adoption of the ordinance and upon the filing and recording of the ordinance under section 22 of this chapter.

SECTION 6. IC 36-4-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) After an ordinance is adopted under section 3, 4, 5, or 5.1 of this chapter, it must be published in the manner prescribed by IC 5-3-1. Except as provided in subsection (b), (c), or (f), in the absence of remonstrance and appeal under section 11, ~~or 15.5~~, **or 15.6** of this chapter, the ordinance takes effect at least ninety (90) days after its publication and upon the filing required by section 22(a) of this chapter.

(b) An ordinance described in subsection (d) or adopted under section 3, 4, 5, or 5.1 of this chapter may not take effect during the year preceding a year in which a federal decennial census is conducted. An ordinance that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 2 of the year in which a federal decennial census is conducted.

(c) Subsections (d) and (e) apply to fire protection districts that are established after June 14, 1987.

(d) Except as provided in subsection (b), whenever a municipality

annexes territory, all or part of which lies within a fire protection district (IC 36-8-11), the annexation ordinance (in the absence of remonstrance and appeal under section 11, ~~or~~ 15.5, **or 15.6** of this chapter) takes effect the second January 1 that follows the date the ordinance is adopted and upon the filing required by section 22(a) of this chapter. The municipality shall:

(1) provide fire protection to that territory beginning the date the ordinance is effective; and

(2) send written notice to the fire protection district of the date the municipality will begin to provide fire protection to the annexed territory within ten (10) days of the date the ordinance is adopted.

(e) If the fire protection district from which a municipality annexes territory under subsection (d) is indebted or has outstanding unpaid bonds or other obligations at the time the annexation is effective, the municipality is liable for and shall pay that indebtedness in the same ratio as the assessed valuation of the property in the annexed territory (that is part of the fire protection district) bears to the assessed valuation of all property in the fire protection district, as shown by the most recent assessment for taxation before the annexation, unless the assessed property within the municipality is already liable for the indebtedness. The annexing municipality shall pay its indebtedness under this section to the board of fire trustees. If the indebtedness consists of outstanding unpaid bonds or notes of the fire protection district, the payments to the board of fire trustees shall be made as the principal or interest on the bonds or notes becomes due.

(f) This subsection applies to an annexation initiated by property owners under section 5.1 of this chapter in which all property owners within the area to be annexed petition the municipality to be annexed. Subject to subsections (b) and (d), and in the absence of an appeal under section 15.5 **or 15.6** of this chapter, an annexation ordinance takes effect at least thirty (30) days after its publication and upon the filing required by section 22(a) of this chapter.

SECTION 7. IC 36-4-3-7.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7.1. Notwithstanding section 7(b) of this chapter, an ordinance adopted under section 4 of this chapter takes effect immediately upon the expiration of the sixty (60) day remonstrance and appeal period under section 11, ~~or~~ 15.5, **or 15.6** of this chapter and after the publication, filing, and recording required by section 22(a) of this chapter if all of the following conditions are met:

(1) The annexed territory has no population.

(2) Ninety percent (90%) of the total assessed value of the land for property tax purposes has one (1) owner.

(3) The annexation is required to fulfill an economic development incentive package and to retain an industry through various local incentives, including urban enterprise zone benefits."

Page 13, between lines 18 and 19, begin a new paragraph and insert:

"SECTION 11. IC 36-4-3-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. (a) The court's judgment under section 12, ~~or 15.5~~, **or 15.6** of this chapter must specify the annexation ordinance on which the remonstrance is based. The clerk of the court shall deliver a certified copy of the judgment to the clerk of the municipality. The clerk of the municipality shall:

- (1) record the judgment in the clerk's ordinance record; and
- (2) make a cross-reference to the record of the judgment on the margin of the record of the annexation ordinance.

(b) If a judgment under section 12, ~~or 15.5~~, **or 15.6** of this chapter is adverse to annexation, the municipality may not make further attempts to annex the territory or any part of the territory during the four (4) years after the later of:

- (1) the judgment of the circuit or superior court; or
- (2) the date of the final disposition of all appeals to a higher court; unless the annexation is petitioned for under section 5 or 5.1 of this chapter.

(c) This subsection applies if a municipality repeals the annexation ordinance:

- (1) less than sixty-one (61) days after the publication of the ordinance under section 7(a) of this chapter; and
- (2) before the hearing commences on the remonstrance under section 11(c) of this chapter.

A municipality may not make further attempts to annex the territory or any part of the territory during the twelve (12) months after the date the municipality repeals the annexation ordinance. This subsection does not prohibit an annexation of the territory or part of the territory that is petitioned for under section 5 or 5.1 of this chapter.

(d) This subsection applies if a municipality repeals the annexation ordinance:

- (1) at least sixty-one (61) days but not more than one hundred twenty (120) days after the publication of the ordinance under section 7(a) of this chapter; and
- (2) before the hearing commences on the remonstrance under section 11(c) of this chapter.

A municipality may not make further attempts to annex the territory or any part of the territory during the twenty-four (24) months after the date the municipality repeals the annexation ordinance. This subsection does not prohibit an annexation of the territory or part of the territory that is petitioned for under section 5 or 5.1 of this chapter.

(e) This subsection applies if a municipality repeals the annexation ordinance:

- (1) either:
 - (A) at least one hundred twenty-one (121) days after publication of the ordinance under section 7(a) of this chapter but before the hearing commences on the remonstrance under section 11(c) of this chapter; or

- (B) after the hearing commences on the remonstrance as set forth in section 11(c) of this chapter; and
 (2) before the date of the judgment of the circuit or superior court as set forth in subsection (b).

A municipality may not make further attempts to annex the territory or any part of the territory during the forty-two (42) months after the date the municipality repeals the annexation ordinance. This subsection does not prohibit an annexation of the territory or part of the territory that is petitioned for under section 5 or 5.1 of this chapter.

(f) If a judgment under section 12, ~~or 15.5~~, **or 15.6** of this chapter orders the annexation to take place, the annexation is effective when the clerk of the municipality complies with the filing requirement of section 22(a) of this chapter.

SECTION 12. IC 36-4-3-15.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 15.6. (a) This section applies only to the owners of land that meets the following conditions:**

(1) The land is located:

- (A) in an unincorporated area within one (1) township; and**
(B) not more than one-half (1/2) of a mile from territory that is sought to be annexed.

(2) The land is not located in the territory that is sought to be annexed.

(3) The land is located in the same county as the territory that is sought to be annexed.

(4) At least fifty percent (50%) of the land is used for agricultural purposes.

(b) At least sixty-five percent (65%) of the owners of land described in subsection (a) may file a petition requesting that the proposed annexation not take place. The owners of the land must file the petition:

(1) with the legislative body of the township in which the land is located; and

(2) not more than forty-five (45) days after the publication of the annexation ordinance under section 7 of this chapter.

(c) If a petition meeting the conditions of subsection (b) is filed with the township legislative body, the township legislative body may adopt a resolution authorizing an appeal of the proposed annexation. The township legislative body must file a complaint appealing the proposed annexation as authorized by this section with the circuit or superior court of the county.

(d) If a complaint appealing the proposed annexation is filed with the circuit or superior court under subsection (c) not more than ninety (90) days after the publication of the annexation ordinance under section 7 of this chapter, the court shall fix a date and time for a hearing on the appeal. Notice of the proceedings, in the form of a summons, shall be served on the annexing

1 municipality. The municipality is the defendant in the cause and
2 shall appear and answer.

3 (e) The circuit or superior court shall on the date fixed under
4 subsection (d) hear and determine the appeal under subsection (d)
5 without a jury and enter judgment on the question of the
6 annexation according to the evidence that either party may
7 introduce. At the hearing under this subsection, the court shall
8 order the proposed annexation not to take place if the court finds
9 that all the following conditions exist:

10 (1) The petition filed by landowners with the township
11 legislative body opposing the annexation meets the
12 requirement of this section.

13 (2) The annexation will have a significant financial impact on
14 the residents or owners of the land described in subsection (a).

15 (3) The annexation is not in the best interests of the residents
16 or owners of the land described in subsection (a)."

17 Renumber all SECTIONS consecutively.

(Reference is to ESB 512 as printed March 25, 2005.)

Representative Dvorak